

Appl. No. 10/729,485  
Response dated September 14, 2006  
Reply to Office Action of July 26, 2006

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Remarks

Claims 1-33 are pending in the instant application. Accordingly, claims 1-33 form the subject matter of this response. The remarks made below were not presented earlier because they are based on new grounds for rejection. Reconsideration of the present application in view of the following remarks is respectfully requested.

Rejections Under 35 U.S.C. § 102

Jitoe does not disclose each and every element of the claimed invention.

By way of the Office Action mailed July 26, 2006, the Examiner rejects claims 1-5, 8, 11, 16-19, and 26-28 under 35 U.S.C. § 102(b) as allegedly being anticipated by or, alternatively, under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent Application Publication No. US 2002/0151862, published on October 17, 2002 to Jitoe et al. (hereinafter "Jitoe"). This rejection is respectfully traversed.

Jitoe is directed to a disposable pull-on diaper having elastic members extending circumferentially around the diaper to provide circumferential tension and thus a tighter fit. Independent claim 1 of the present invention is directed to an absorbent article including, *inter alia*, a first elastomeric suspension member disposed only in said front waist region and attached to said absorbent body in said front waist region, and a second elastomeric suspension member attached to said absorbent body in said back waist region.

Applicants assert that Jitoe fails to disclose the arrangement of elastomeric suspension members as required by claim 1. Specifically, Jitoe does not disclose a first elastomeric suspension member that is "attached to said absorbent body in said front waist region." Nor does Jitoe disclose a second elastomeric suspension member "attached to said absorbent body in said back waist region." In Jitoe, elastic members extend across the diaper (1) from the heat-sealing zone (9) on one side of the diaper to the heat-sealing zone on the other side of the diaper. The elastic members are not attached to the absorbent core (4) (see paragraphs 0010, 0030, 0034, and 0041), and cannot be attached to the absorbent core and still perform their function for the reasons outlined in those same paragraphs. Likewise, Jitoe cannot teach or suggest the claimed invention because the different structures perform different functions in different ways. One skilled

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in the art would not be taught or given a suggestion to accomplish the claimed invention by the disclosure of Jitoe, and the Examiner has not provided a basis for such teaching or suggestion. Accordingly, for at least these reasons, Applicants respectfully submit that claim 1 is patentable over Jitoe. Moreover, claims 2-17, which all eventually depend from claim 1, are also accordingly patentable over Jitoe.

Similarly, independent claim 18 of the present invention is directed to a disposable absorbent article including, *inter alia*, a first elastomeric suspension member disposed only in said front waist region and attached to said absorbent assembly in said front waist region; and a second elastomeric suspension member attached to said absorbent assembly in said back waist region. For at least the same reasons described above with respect to claim 1, Applicants respectfully submit that claim 18 is patentable over Jitoe. Moreover, claims 19-25, which all eventually depend from claim 18, are also accordingly patentable over Jitoe.

Similarly, independent claim 26 of the present invention is directed to a disposable absorbent article including, *inter alia*, at least one elastomeric suspension member attached to each of said absorbent side edges in said front waist region, and at least one elastomeric suspension member attached to each of said absorbent side edges in said rear waist region. For at least the reasons described above with respect to claim 1, Applicants respectfully submit that claim 26 is patentable over Jitoe. Moreover, claims 27-33, which all eventually depend from claim 26, are also accordingly patentable over Jitoe.

For at least the reasons set forth above, Applicants respectfully request that all the rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103 be withdrawn.

In conclusion, and in view of the above amendments and remarks, reexamination, reconsideration, and withdrawal of the rejections of the claims are respectfully requested. Moreover, it is respectfully submitted that all of the presently presented claims are in condition for allowance and such action is earnestly solicited. If the Examiner has any questions or if there are any remaining issues that can be handled by telephone, the Examiner is invited to contact the undersigned at (920) 721-8863.

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Please charge any fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

Respectfully submitted,

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#### CERTIFICATE OF FACSIMILE

I, Mary L. Marchant, hereby certify that on September 14, 2006, this document is being transmitted via facsimile to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, to facsimile number (571) 273-8300.

By: 

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